

Appl. No. 10/035,093

RESPONSE UNDER 37 C.F.R. § 1.116 — EXPEDITED PROCEDURE

Response dated September 16, 2004

Reply to Office Action of June 16, 2004

### **REMARKS/ARGUMENTS**

Claims 1-2, 8-10 and 16-36 are presented for the Examiner's consideration. Claims 1-, 8-10 and 16-30 are drawn to an elastic laminate material while claims 31-36 are to process for forming elastic laminate material. No new claims have been added. Claims 3-6 have been previously canceled. By way of this amendment and response, Applicants request cancellation of claims 7 and 11-15. Claims 1, 31 and 34 are currently amended, and support for the amendment may be found at least in canceled claim 12 and in the specification on pages 14 and 15, for example.

Pursuant to 37 C.F.R. § 1.116, reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

By way of Paragraph 2 of the Office Action mailed June 16, 2004, the Examiner rejected claims 1-2 and 7-33 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. Patent Number 5,851,935 to Srinivasan et al. (hereinafter "Srinivasan et al.") or U.S. Patent Number 5,431,991 to Quantrille et al. (hereinafter "Quantrille et al.") in view of U.S. Patent Number 6,096,668 to Abuto et al. (hereinafter "Abuto et al."). This rejection is respectfully **traversed** to the extent that it may apply to the currently presented claims. Please note that by this amendment, Applicants request cancellation of claims 7 and 11-15 which were included in that rejection.

The invention as presently claimed in claim 1 comprises an elastic laminate material which comprises a thermoplastic elastic material and a non-bonded staple fiber web layer bonded to the thermoplastic elastic material, wherein the thermoplastic elastic material comprises elastic polyolefin or a blend of elastic polyolefin and styrenic block copolymer, and further wherein the thermoplastic elastic material comprises a multi-layer film comprising first and second external skin layers, each in an amount of from about 3 weight percent to about 20 weight percent of the multi-layer film, the first and second external skin layers comprising a bonding agent, and an interior layer of an elastic polymer in an amount of from about 60 weight percent to about 94 weight percent of the multi-layer film. The process claims 31-33 have been amended in similar fashion.

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Srinivasan et al. discloses a nonwoven fibrous web/elastic film laminate which is laminated in a thermal spot bonding process which melts holes or apertures through the elastic film (see, e.g., Srinivasan et al. at claim 1, at col. 3 lines 28-35, and col. 4 lines 62-67). Quantrille et al. discloses a nonwoven/elastic laminate wherein the elastic is a stranded netting having non-extensible machine direction strands and elastic cross-machine direction strands and the nonwoven fibrous web or webs are hydroentangled into the netting material. Abuto et al. teaches a film laminate comprising an extensible barrier film, an extensible nonwoven outer layer, and an elastic intermediate nonwoven web of fibers.

The Examiner has stated that it would have been obvious to one skilled in the art to make the elastic films of Srinivasan et al. or Quantrille et al. of polyolefin elastomer to substitute a different type of thermoplastic elastomer because of the teachings of Abuto et al. However, while, as has previously been argued, Applicants remain of the opinion that the combination of Srinivasan et al. or Quantrille et al. in view of Abuto et al. is not proper, Applicants also believe that no combination of Srinivasan et al. or Quantrille et al. with Abuto et al. has been shown to teach or suggest the combination now required by claims 1-2, 8-10 and 16-33. Specifically, the cited combination does not appear to teach or suggest the use of the multilayer elastic films which are required by the claims. Nor, in fact, does the cited combination appear to teach multilayer elastic films in any respect.

By way of Paragraph 3 of the Office Action mailed June 16, 2004, the Examiner rejected claims 34-36 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over Quantrille et al. in view of U.S. Patent Number 6,027,483 to Chappell et al. (hereinafter "Chappell et al."). This rejection is respectfully **traversed** to the extent that it may apply to the currently presented claims.

The invention as claimed in claim 34 is a process for forming elastic laminate material comprising the steps of forming a first non-bonded staple fiber web, extruding a thermoplastic elastic material, wherein the thermoplastic elastic material comprises a multi-layer film comprising first and second external skin layers, each in an amount of from about 3 weight percent to about 20 weight percent of the multi-layer film, the first and second external skin layers comprising a bonding agent, and an interior layer of an elastic polymer in an amount of from about 60 weight percent to about 94 weight

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percent of the multi-layer film and then forming the laminate by bonding the fiber web layer to the thermoplastic elastic material while the elastic material remains in a partially molten state.

As discussed above, Quantrille et al. discloses a nonwoven/elastic laminate wherein the elastic is a stranded netting having non-extensible machine direction strands and elastic cross-machine direction strands and the nonwoven fibrous web or webs are hydroentangled into the netting material. Chappell et al. discloses an absorbent article having an absorbent core and a web material joined to the absorbent core, where the web material exhibits elastic-like behavior. The Examiner stated that because Chappell et al. teaches extrusion bonding as known, it would have been obvious to one skilled in the art to have used extrusion bonding to laminate the webs and film of Quantrille et al. to provide an alternate well known method of bonding.

As has previously been argued, Applicants remain of the opinion that the combination of Quantrille et al. in view of Chappell et al. is not proper. However, Applicants also believe that the combination of Quantrille et al. in view of Chappell et al. has not been shown to teach or suggest the combination now required by process claims 34-36. Specifically, the cited combination does not appear to teach or suggest the use of the multilayer elastic films which are required by the claims. Nor, in fact, does the cited combination appear to teach multilayer elastic films in any respect.

Because the combination of Srinivasan et al. or Quantrille et al. in view of Abuto et al. (with respect to claims 1-2, 8-10 and 16-33) and the combination of Quantrille et al. in view of Chappell et al. (with respect to claims 34-36) both fail to teach or in any way suggest all of the requirements of Applicants' invention as presently claimed, Applicants respectfully submit that the 35 U.S.C. §103 rejections of these claims be withdrawn.

For the reasons stated above, it is respectfully submitted that all of the presently presented claims are in form for allowance.

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Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: 770-587-8908.

Respectfully submitted,

ELLIS ET AL.

By: Robert A. Ambrose  
Robert A. Ambrose  
Registration No.: 51,231

#### CERTIFICATE OF FACSIMILE TRANSMISSION

I, Robert A. Ambrose, hereby certify that on September 16, 2004, this document is being faxed to the United States Patent and Trademark Office, central facsimile machine at (703) 872-9306.

By: Robert A. Ambrose  
Robert A. Ambrose